

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

**(Attorney Docket No. 1799)**

|   |   |                              |
|---|---|------------------------------|
| <b>In re the Application of:</b>            | ) |                              |
|   | ) |                              |
| <b>Dale Knoop</b>                           | ) |                              |
|   | ) | <b>Group Art Unit: 2617</b>  |
| <b>Serial No.: 10/059,538</b>               | ) |                              |
|   | ) | <b>Examiner: Huy Q. Phan</b> |
| <b>Filed: January 29, 2002</b>              | ) |                              |
|   | ) | <b>Confirmation No. 5786</b> |
| <b>For: Method and System for Selecting</b> | ) |                              |
| <b>Transmission Modes for Streaming</b>     | ) |                              |
| <b>Media Content to a Wireless Handset</b>  | ) |                              |

**APPEAL BRIEF**

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## **I. Real Party in Interest**

The real party in interest is Sprint Spectrum L.P. (a wholly owned subsidiary of Sprint Nextel Corporation), to which this invention is assigned.

## **II. Related Appeals and Interferences**

Applicant is not aware of any related appeals or interferences.

## **III. Status of Claims**

Claims 1-11, 18-22, 24, and 25 are pending and stand rejected. Claims 12-17 and 23 were previously canceled. The rejection of claims 1-11, 18-22, 24, and 25 is being appealed. A clean set of the claims is attached in the Claims Appendix beginning at page 17.

## **IV. Status of Amendments**

No amendments were filed subsequent to the final rejection mailed March 6, 2007.

## **V. Summary of Claimed Subject Matter**

Of the currently pending claims, claims 1, 18, 19, and 22 are independent. Claims 2-11 are dependent on claim 1. Claims 20 and 21 are dependent on claim 19. Claims 24 and 25 are dependent on claim 22.

Claim 1 is directed to a method of selecting a transmission mode for streaming media content to a wireless handset. The method comprises the steps of: (a) presenting on the wireless handset a set of choices indicating transmission modes for streaming media content to the wireless handset, wherein the set of choices is tailored based on at least one presentation capability of the wireless handset (*see* Specification, p. 24, lines 7-18; p. 25, lines 5-11; p. 27, lines 10-16; Figure 5, step 252); (b) receiving from the user of the wireless handset an indication of a transmission mode selected from the set of choices (*see* Specification, p. 27, lines 16-17;

Figure 5, step 254); (c) sending from the wireless handset to a media server an indication of the selected transmission mode (*see* Specification, p. 27, lines 17-19; Figure 5, step 256); (d) receiving a list of available media content, wherein all media content in the list of available media content is compatible with the indicated transmission mode (*see* Specification, p. 5, lines 1-6, p. 5, lines 13-15, p. 22, lines 18-23, p. 26, line 9 – p. 27, line 9); (e) receiving from a user a selection of one of the media content in the list of available media content (*see* Specification, p. 5, lines 15-17); and (f) receiving into the wireless handset the selected media content from the media server at the selected transmission mode (*see* Specification, p. 5, lines 17-18).

Claim 18 is directed to a wireless handset comprising: (a) a processor (*see* Specification, p. 8, line 3); (b) data storage (*see* Specification, p. 8, line 3); (c) a screen display (*see* Specification, p. 7, lines 20-21); (d) transmission-choice logic stored in the data storage and executable by the processor (i) to present on the screen display a set of choices indicating available transmission modes for streaming media to the wireless handset, wherein the available transmission modes are based at least in part on a presentation capability of the wireless handset, (ii) to receive a user selection of one of the choices, and (iii) to send to a media server an indication of the selected transmission mode (*see* Specification, p. 8, lines 4-14, p. 24, lines 7-18; p. 25, lines 5-11; p. 27, lines 10-19); (e) selection logic, stored in the data storage and executable by the processor (i) to receive from the media server a list of available media content, wherein all media content in the list of available media content is compatible with the selected transmission mode, (ii) to receive a user selection of one of the available media content from the list, and (iii) to provide the selection of the one of the available media content to the media server (*see* Specification, p. 5, lines 1-6, p. 5, lines 13-18, p. 8, lines 4-14, p. 22, lines 18-23, p. 26, line 9 –

p. 27, line 9); and (f) media playing logic stored in the data storage and executable by the processor (i) to receive media streamed from the media server to the wireless handset at the selected transmission mode and (ii) present the streamed media to the user (*see* Specification, p. 8, lines 4-14, p. 21, lines 19-21).

Claim 19 is directed to a media server comprising: (a) a processor (*see* Specification, p. 8, lines 15-17); (b) data storage (*see* Specification, p. 8, lines 15-17); (c) media content stored in the data storage (*see* Specification, p. 9, lines 4-11); (d) transmission-choice logic stored in the data storage and executable by the processor, in response to a request from a wireless handset to receive streaming media from the media server, (i) to send the wireless handset a list of choices indicating transmission modes available for streaming the media content to the wireless handset, wherein the set of choices indicating transmission modes is based, at least in part, on a presentation capability of the wireless handset, and (ii) to then receive from the wireless handset an indication of a transmission mode selected by a user of the wireless handset (*see* Specification, p. 8, line 17 – p. 9, line 3, p. 24, lines 7-18; p. 25, lines 5-11; p. 27, lines 10-19); (e) list logic stored in the data storage and executable by the processor to i) establish a list of available media content, wherein all media content in the list is compatible with the indicated transmission mode, ii) to send the list to the wireless handset, and iii) to receive from the wireless handset and indication of one of the media content in the list (*see* Specification, p. 5, lines 1-6, p. 5, lines 13-18, p. 8, line 17 – p. 9, line 3, p. 22, lines 18-23, p. 26, line 9 – p. 27, line 9); (f) media streaming logic stored in the data storage and executable by the processor to stream the media content to the wireless handset at the transmission mode selected by the user (*see* Specification, p. 5, lines 18-19, p. 8, line 17 – p. 9, line 3); (g) choice-establishment logic stored in the data

storage and executable by the processor to establish the set of choices (*see* Specification, p. 8, line 17 – p. 9, line 3, p. 24, line 7 – p. 25, line 11); and (h) capability-logic stored in the data storage and executable by the processor to receive from the wireless handset a capability indication for the wireless handset (see Specification, p. 8, line 17 – p. 9, line 3, p. 15, line 10 – p. 20, line 6).

Claim 22 is directed to a method for streaming media content to a wireless handset. The method comprises the steps of: (a) providing a user of the wireless handset with a list of media content choices (*see* Specification, p. 23, lines 4-6); (b) determining a list of permissible transmission modes for a selected media content choice, the selected media content choice having been selected by the user from the list of media content choices (*see* Specification, p. 23, lines 8-16); (c) providing the user with the list of permissible transmission modes for the selected media content choice, wherein the list of permissible transmission modes is tailored to the presentation capabilities of the wireless handset (*see* Specification, p. 23, lines 8-16); and (d) receiving into the wireless handset the selected media content choice at a selected transmission mode, the selected transmission mode having been selected by the user from the list of permissible transmission modes (*see* Specification, p. 5, lines 16-17, p. 23, line 16).

## **VI. Grounds of Rejection to be Reviewed on Appeal**

Claims 1-11 and 18-22 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Pub. No. 2002/0099790 (Mosher) in view of U.S. Pub. No. 2003/0079020 (Gourraud).

Claim 24 stands rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Pub. No. 2002/0099790 (Mosher) in view of U.S. Pub. No. 2003/0079020 (Gourraud) and further in view of U.S. Patent No. 6,952,279 (Iida).

Claim 25 stands rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Pub. No. 2002/0099790 (Mosher) in view of U.S. Pub. No. 2003/0079020 (Gourraud) and further in view of U.S. Patent No. 6,779,195 (Oishi).

## **VII. Argument**

### **A. The Examiner Erred in Rejecting Claims 1-11 and 18-21 as Being Obvious over a Combination of Mosher and Gourraud**

The rejections of claims 1-11 and 18-21 under 35 U.S.C. § 103(a) are improper because the Examiner has failed to establish a *prima facie* case of obviousness of the claims over a combination of Mosher and Gourraud. In order to establish a *prima facie* case of obviousness over a combination of references, the combination must teach or suggest all of the claim limitations. MPEP § 2143.03; *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In this case, however, even if Mosher and Gourraud were to be combined together, the resulting combination would still fail to teach or suggest all of the limitations recited in claims 1-11 and 18-21.

Of these claims, claims 1, 18, and 19 are independent. These claims all recite, in one way or another, the functions of (1) providing a wireless handset with a set of choices indicating transmission modes for streaming media content to the wireless handset, wherein the set of choices is based on a presentation capacity of the wireless handset and (2) receiving a list of available media content, wherein all media content in the list of available media content is compatible with a user-selected transmission mode:

- Claim 1 recites “presenting on the wireless handset a set of choices indicating transmission modes for streaming media content to the wireless handset, wherein the set of choices is tailored based on at least one presentation capability of the wireless handset” and “receiving a list of available media content, wherein all media content in the list of available media content is compatible with the indicated transmission mode.”
- Claim 18 recites “transmission-choice logic stored in the data storage and executable by the processor (i) to present on the screen display a set of choices indicating available transmission modes for streaming media to the wireless handset, wherein the available transmission modes are based at least in part on a presentation capability of the wireless handset” and “selection logic, stored in the data storage and executable by the processor (i) to receive from the media server a list of available media content, wherein all media content in the list of available media content is compatible with the selected transmission mode.”
- Claim 19 recites “transmission-choice logic stored in the data storage and executable by the processor ... (i) to send to the wireless handset a set of choices indicating transmission modes available for streaming the media content to the wireless handset, wherein the set of choices indicating available transmission modes is based, at least in part, on a presentation capability of the wireless handset” and “list logic stored in the data storage and executable by the processor to i) establish a list of available media content, wherein all media content in the list is compatible with the indicated transmission mode.”



With respect to function (1), the Examiner cited Mosher as disclosing “presenting on the wireless handset a set of choices indicating transmission modes for streaming media content to the wireless handset.” *See* Final Office Action, p. 4. However, the Examiner admitted that Mosher does not specifically disclose that the set of choices is tailored based on at least one presentation capability of the wireless handset. *See* Final Office Action, p. 5. Instead, the Examiner has relied on Gourraud as allegedly teaching this element. With respect to function (2), the Examiner admitted that Mosher does not specifically disclose receiving a list of available media content wherein all media content in the list of available media content is compatible with the indicated transmission mode. The Examiner again relied on Gourraud as allegedly teaching this element. *See* Final Office Action, p. 5.

In particular, the Examiner has argued that “Gourraud teaches receiving the set of choices is tailored based on at least one presentation capability of the wireless handset (‘viewed or listened’ see [0032] and [0038]).” *See* Final Office Action, p. 5. In the Examiner’s rationale, the terms “view” and “listen” refer to a presentation capability of the terminal. *See* Final Office Action, p. 2. Thus, the Examiner has cited Gourraud as allegedly teaching that the terminal receives a set of choices indicating transmission modes for streaming media content to the terminal, wherein the set of choices is tailored based on whether the terminal is capable of viewing or listening to the media content.

However, that is not what Gourraud actually discloses. Paragraphs 32 and 38 cited by the Examiner describe how, after terminal 52 connects to service provider 60, the user chooses one or more programs (P1 and P2) to be viewed or listened, requests these programs from the service

provider 60, the service provider 60 requests the selected programs from the content provider 68, and the content provider 68 streams the programs to the terminal.

Thus, Gorraud describes a choice of *programs*, not a choice of *transmission modes*. Moreover, even if the programs were to be equated with transmission modes, Gourraud does not disclose presenting a set of choices that is tailored based on at least one presentation capability of the terminal. Further, Gourraud fails to disclose a list of available media content, wherein all media content is compatible with a user-selected transmission mode. These three points are discussed in detail below.

**1. Gourraud discloses a choice of programs, not a choice of transmission modes**

The Examiner has attempted to bridge the gap between programs and transmission modes by simply asserting that programs and transmission modes are one and the same. In particular, the Examiner explained that “it is interpreted a choice of programs as a choice of transmission modes.” *See* Final Office Action, p. 2.

The Examiner’s interpretation, however, flies in the face of the explicit definition of “transmission mode” given in the specification:

A transmission mode generally specifies parameters used to send media content to the wireless handset 100.

*See* Specification, p. 9, lines 14-15. This definition is controlling. “Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim.” *See* MPEP § 2111.01(IV.); *Toro Co. v. White Consolidated Industries, Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999). Therefore, the Examiner is required to interpret the choice of transmission modes as a choice of parameters used to send

media content to the wireless handset. The Examiner is not entitled to interpret the “programs” (the media content) as the “transmission modes” (the parameters used to send media content to the wireless handset); indeed, such an interpretation would be nonsensical.

Moreover, Applicant’s specification explains the difference between programs (i.e., media content) and transmission modes. In particular, the media content is *what* is transmitted, whereas a transmission mode specifies *how* the media content is transmitted:

[A] given instance of media content can be stored as a single file in the media server’s memory. The file can be transmitted to a wireless handset 100 using one or more different transmission modes. A transmission mode generally specifies parameters used to send media content to the wireless handset 100.

*See* Specification, p. 9, lines 12-15.

The claims also distinguish between “transmission modes” and “media content.” For example, claim 1 recites “receiving a list of available media content, wherein all media content in the list of available media content is compatible with the indicated transmission mode.” If the media content and transmission modes are the same, as the Examiner has asserted, then this claim language would make no sense.

The Examiner appears to have been confused by the examples of “video only” and “audio only” transmission modes given in Applicant’s specification. *See* Final Office Action, p. 2. In this regard, Applicant’s specification states as follows:

A transmission mode can specify, for instance: a high bit rate, a low bit rate, other specific bit rates, video only, audio only, video plus audio, and periodic stills plus audio.

*See* Specification, p. 9, lines 15-17. Based on this statement, the Examiner argued that “applicant specifies ‘a transmission mode’ as ‘video only, audio only’ [so that] it is interpreted a program list as a list of permissible transmission modes.” *See* Final Office Action, p. 3. However, the

possibility of “video only” and “audio only” transmission modes in no way justifies the Examiner equating programs with transmission modes. A “video only” transmission mode is still a “transmission mode,” which under Applicant’s definition means parameters used to send media content to the wireless handset. For example, a video program could be transmitted using either a “video only” transmission mode or a “video plus audio” transmission mode, and the transmission could be at either a high bit rate or a low bit rate.

Thus, the Examiner erred by ignoring the explicit *definition* of “transmission mode” found in the specification, instead picking out the “video only” and “audio only” *examples* of transmission modes that Applicant disclosed. Further, the fact that these examples were disclosed by *Applicant* highlights yet another Examiner error. A proper obviousness determination “does not include knowledge gleaned only from applicant’s disclosure.” MPEP § 2145(X)(A); *In re McLaughlin*, 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971). In contrast, the Examiner took the improper approach of relying on Applicant’s examples of “video only” and “audio only” transmission modes, examples that the Examiner gleaned from Applicant’s disclosure, not from the prior art.

Accordingly, the Examiner’s rejections of claims 1-11 and 18-21 are clearly erroneous because the Examiner ignored Applicant’s definition of “transmission mode” and improperly relied on Applicant’s disclosure of “video only” and “audio only” transmission modes.

**2. Gourraud does not disclose presenting the terminal with a set of choices that is tailored based on at least one presentation capability of the terminal**

Even if the “programs” in Gourraud were somehow to be viewed as “transmission modes,” Gourraud does not disclose presenting the terminal with a set of choices that is tailored

based on at least one presentation capability of the terminal. Gourraud discloses that the user selects the programs after connecting to service provider 60:

First, the user connects SIP terminal 52 to service provider 60's web server 62, and selects one or more programs to be downloaded and executed (viewed or listened to) on SIP terminal 52, action 100.

*See* paragraph 38. Thus, service provider 60's web server 62 is what presents terminal 52 with a set of program choices. However, Gorraud does not state that the set of program choices presented to the terminal is in any way tailored based on the terminal's presentation capability. For example, Gourraud does not state that all the program choices can be viewed, in the case of a "view" capability, and does not state that all the program choices can be listened to, in the case of a "listen" capability. To the contrary, Gourraud discloses that the service provider can provide access to a wide range of media programs, some of which would be compatible with a "view" capability (e.g., "movies") and some of which would not be (e.g., "songs"). *See* paragraph 13. Thus, the set of program choices presented to the terminal in Gourraud is not tailored based on the terminal's presentation capability.

Accordingly, the Examiner's rejections of claims 1-11 and 18-21 are clearly erroneous because Gourraud does not disclose choices that are tailored based on the terminal's presentation capability.

**3. Gourraud does not disclose receiving a list of available media content, wherein all media content in the list of available media content is compatible with a user-selected transmission mode**

In addition to a set of choices indicating transmission modes, claims 1, 18, and 19 recite receiving a list of available media content, wherein all media content in the list of available media content is compatible with the indicated or selected transmission mode. These claims also

specify that the indicated or selected transmission mode is a transmission mode that the user has selected from the set of choices indicating transmission modes. Thus, the indicated or selected transmission mode is a user-selected transmission mode.

The Examiner has alleged that Gourraud teaches this element, citing to Fig. 7 and paragraphs 38-44. *See* Final Office Action, p. 5. That section of Gourraud discloses the user's selection of a sequence of programs P1 and P2 (which are identified in a program list 103) and the process of streaming program P1 and then program P2 to the user's terminal. Thus, in the Examiner's rationale, program list 103 corresponds to the claimed "list of available media content."

However, program list 103 is not a list of available media content wherein all media content in the list is compatible with an *indicated* or *selected* transmission mode, as recited in claims 1, 18, and 19. This is because these claims specify that the indicated or selected transmission mode is a *user-selected* transmission mode that the user has selected from a set of choices. However, the user in Gourraud does not select a transmission mode from a set of choices. As discussed above in Section VII.A.1, the user in Gourraud selects programs, not transmission modes. Thus, the programs identified in program list 103 do not meet the requirement of wherein all media content in the list of available media content is compatible with the indicated or selected (i.e., user-selected) transmission mode because there is no user-selected transmission mode at all.

Accordingly, the Examiner's rejections of claims 1-11 and 18-21 are clearly erroneous because Gourraud does not disclose receiving a list of available media content, wherein all media

content in the list of available media content is compatible with the indicated or selected transmission mode.

**B. The Examiner Erred in Rejecting Claim 22 as Being Obvious over a Combination of Mosher and Gourraud**

The rejection of claim 22 under 35 U.S.C. § 103(a) is improper because the Examiner has failed to establish a *prima facie* case of obviousness of the claim over a combination of Mosher and Gourraud. In order to establish a *prima facie* case of obviousness over a combination of references, the combination must teach or suggest all of the claim limitations. MPEP § 2143.03; *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In this case, however, even if Mosher and Gourraud were to be combined together, the resulting combination would still fail to teach or suggest all of the limitations recited in claim 22.

Claim 22 recites, *inter alia*, “providing the user with the list of permissible of transmission modes for the selected media content choice, wherein the list of permissible transmission modes is tailored to the presentation capabilities of the wireless handset.” The Examiner has acknowledged that Mosher does not specifically disclose this element and has instead relied on Gourraud. *See* Final Office Action, pp. 7-8.

In particular, the Examiner has asserted that Gourraud teaches “wherein the list of permissible transmission modes is tailored to the presentation capabilities of the wireless handset,” specifically citing to paragraphs 32 and 38. *See* Final Office Action, p. 8. In the Examiner’s rationale, the terms “view” and “listen” refer to a presentation capability of the terminal. *See* Final Office Action, p. 3. Further, the Examiner has alleged that program list 103 in Gourraud corresponds to the claimed “list of permissible transmission modes.” In particular,

the Examiner interpreted “a program list as a list of permissible transmission modes.” *See* Final Office Action, p. 3.

The Examiner’s rationale is fatally flawed for at least four reasons. First, the Examiner is not entitled to interpret a program list as a list of permissible transmission modes because Applicant’s specification explicitly defines a transmission mode as the parameters used to send media content, as discussed above in Section VII.A.1. The Examiner’s interpretation is contrary to Applicant’s definition because the Examiner has interpreted a “transmission mode” as the media content itself (i.e., the program) rather than the parameters used to send the media content. In Gourraud, program list 103 is a list of media content, not a list of permissible transmission modes for a selected media content choice.

Second, even if program list 103 in Gourraud were somehow considered to be a list of permissible transmission modes, program list 103 would still not meet the claim requirement of “providing the *user* with the list of permissible transmission modes.” This is because program list 103 is *created* by the user, not *provided* to the user. As explained in paragraph 38, the user connects terminal 52 to service provider 60’s web server 62, and selects one or more programs to be downloaded and executed on terminal 52. The programs selected by the user are indicated in a program list 103 that terminal 52 sends to service provider 60 in action 102. *See* paragraph 38; Figure 5. Thus, service provider 60’s web server 62 is what provides the user with a list of available programs. However, nothing in Gourraud indicates that the programs available on service provider 60’s web server 62 are in any way tailored to the presentation capabilities of the terminal. To the contrary, Gourraud discloses that the service provider can provide access to a



wide range of media programs, some of which would be compatible with a “view” capability (e.g., “movies”) and some of which would not be (e.g., “songs”). *See* paragraph 13.

Third, claim 22 specifies that the list of permissible transmission modes is “for the selected media content choice,” whereas program list 103 is clearly a list of the selected media content choices themselves, not a list of different transmission modes for the same media content choice. For example, Gourraud describes that if the user does not like the first movie in program list 103, the user can stop it and go to the following one. *See* paragraph 41. Thus, Gourraud makes clear that program list 103 is a list of the selected media content, not a list of transmission modes for selected media content.

Fourth, if program list 103 were to be considered a list of permissible transmission modes, as the Examiner has, then what is the “selected media content choice” for which program list 103 is the list of permissible transmission modes? The Examiner’s rationale is silent on this point -- for the simple reason that the programs in program list 103 *are* the selected media content choices, not permissible transmission modes *for* a selected media content choice.<sup>1</sup>

Accordingly, the Examiner’s rejection of claim 22 is clearly erroneous for at least the foregoing reasons.

**C. The Examiner Erred in Rejecting Claim 24 as Being Obvious over a Combination of Mosher, Gourraud, and Iida**

Claim 24 depends from claim 22. As discussed above, the combination of Mosher and Gourraud fails to teach or suggest all of the limitations of claim 22. Iida does not make up for the deficiencies in the Mosher/Gourraud combination. Moreover, if an independent claim is nonobvious, then any claim depending therefrom is nonobvious. MPEP § 2143.03, citing *In re*

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<sup>1</sup> Indeed, the Examiner appears to be treating program list 103 as a list of “available media content” in rejecting claims 1, 18, and 19, while inconsistently treating program list 103 as a list of “permissible transmission modes” in rejecting claim 22.

*Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, the Examiner's rejection of claim 24 is erroneous for at least the same reasons that the Examiner's rejection of claim 22 is erroneous.

**D. The Examiner Erred in Rejecting Claim 25 as Being Obvious Over a Combination of Mosher, Gourraud, and Oishi**

Claim 25 is dependent on claim 22. As discussed above, the combination of Mosher and Gourraud fails to teach or suggest all of the limitations of claim 22. Oishi does not make up for the deficiencies in the Mosher/Gourraud combination. Moreover, if an independent claim is nonobvious, then any claim depending therefrom is nonobvious. MPEP § 2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, the Examiner's rejection of claim 25 is erroneous for at least the same reasons that the Examiner's rejection of claim 22 is erroneous.

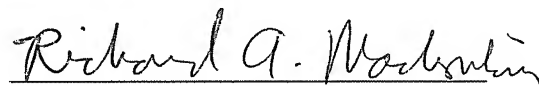
**E. Conclusion**

Applicant has demonstrated that the rejections of claims 1-11, 18-22, 24, and 25 are in error as a matter of law. Applicant therefore requests reversal of the rejections and allowance of all pending claims in this application.

Respectfully submitted,

Date: August 24, 2007

By:



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## VIII. CLAIMS APPENDIX

1. (previously presented) A method of selecting a transmission mode for streaming media content to a wireless handset, the method comprising:

presenting on the wireless handset a set of choices indicating transmission modes for streaming media content to the wireless handset, wherein the set of choices is tailored based on at least one presentation capability of the wireless handset;

receiving from a user of the wireless handset an indication of a transmission mode selected from the set of choices;

sending from the wireless handset to a media server an indication of the selected transmission mode;

receiving a list of available media content, wherein all media content in the list of available media content is compatible with the indicated transmission mode;

receiving from a user a selection of one of the media content in the list of available media content; and

receiving into the wireless handset the selected media content streamed from the media server at the selected transmission mode.

2. (original) The method of claim 1, further comprising:

sending the set of choices from the media server to the wireless handset.

3. (original) The method of claim 1, further comprising:  
  
the media server establishing the set of choices to send to the wireless handset.
4. (original) The method of claim 3, further comprising:  
  
sending from the wireless handset to the media server a capability indication for the wireless handset; and  
  
the media server using the capability indication as a basis to establish the set of choices to send to the wireless handset.
5. (original) The method of claim 4, wherein sending a capability indication further comprises sending from the wireless handset to the media server a SIP INVITE message containing an SDP structure that indicates the capability indication.
6. (original) The method of claim 4, wherein sending a capability indication further comprises sending from the wireless handset to the media server an indication of a make and model of the wireless handset.
7. (original) The method of claim 4, wherein the capability indication indicates the at least one presentation capability and wherein the at least one presentation capability defines a capability of a media player application.

8. (original) The method of claim 3, wherein the media content defines a type, the method further comprising:

the media server using the type of the media content as a basis to establish the set of choices to send to the wireless handset.

9. (previously presented) The method of claim 4, wherein the capability indication indicates the at least one presentation capability and wherein the at least one presentation capability is selected by the user.

10. (original) The method of claim 1, wherein the at least one presentation capability defines a presentation capability of a media player application.

11. (original) The method of claim 1, wherein the at least one presentation capability includes a plurality of presentation capabilities.

Claims 12-17: Canceled

18. (previously presented) A wireless handset comprising:

a processor;

data storage;

a screen display;

transmission-choice logic stored in the data storage and executable by the processor (i) to present on the screen display a set of choices indicating available transmission modes for streaming media to the wireless handset, wherein the available transmission modes are based at least in part on a presentation capability of the wireless handset, (ii) to receive a user selection of one of the choices, and (iii) to send to a media server an indication of the selected transmission mode;

selection logic, stored in the data storage and executable by the processor (i) to receive from the media server a list of available media content, wherein all media content in the list of available media content is compatible with the selected transmission mode, (ii) to receive a user selection of one of the available media content from the list, and (iii) to provide the selection of the one of the available media content to the media server; and

media playing logic stored in the data storage and executable by the processor (i) to receive media streamed from the media server to the wireless handset at the selected transmission mode and (ii) to present the streamed media to the user.

19. (previously presented) A media server comprising:

a processor;

data storage;

media content stored in the data storage;

transmission-choice logic stored in the data storage and executable by the processor, in response to a request from a wireless handset to receive streaming media from the media server, (i) to send to the wireless handset a set of choices indicating transmission modes available for

streaming the media content to the wireless handset, wherein the set of choices indicating transmission modes is based, at least in part, on a presentation capability of the wireless handset, and (ii) to then receive from the wireless handset an indication of a transmission mode selected by a user of the wireless handset;

list logic stored in the data storage and executable by the processor to i) establish a list of available media content, wherein all media content in the list is compatible with the indicated transmission mode, ii) to send the list to the wireless handset, and iii) to receive from the wireless handset an indication of one of the media content in the list;

media streaming logic stored in the data storage and executable by the processor to stream the indicated media content to the wireless handset at the transmission mode selected by the user;

choice-establishment logic stored in the data storage and executable by the processor to establish the set of choices; and

capability-logic stored in the data storage and executable by the processor to receive from the wireless handset a capability indication for the wireless handset.

20. (original) The media server of claim 19, wherein the media content defines a type, and wherein the choice-establishment logic is executable by the processor to establish the set of choices based at least in part on the type of the media content.

21. (original) The media server of claim 19, wherein the choice-establishment logic is executable by the processor to establish the set of choices based at least in part on the capability indication.

22. (previously presented) A method for streaming media content to a wireless handset, the method comprising:

providing a user of the wireless handset with a list of media content choices;

determining a list of permissible transmission modes for a selected media content choice, the selected media content choice having been selected by the user from the list of media content choices;

providing the user with the list of permissible transmission modes for the selected media content choice, wherein the list of permissible transmission modes is tailored to the presentation capabilities of the wireless handset;

receiving into the wireless handset the selected media content choice at a selected transmission mode, the selected transmission mode having been selected by the user from the list of permissible transmission modes.

23. (canceled)

24. (previously presented) The method of claim 22, wherein determining a list of permissible transmission modes for a selected media content choice comprises:

identifying a full set of transmission modes; and

removing from the full set of transmission modes any transmission mode that is not supported by the wireless handset.



25. (previously presented) The method of claim 22, wherein determining a list of permissible transmission modes for a selected media content choice comprises:

identifying a full set of transmission modes; and

removing from the full set of transmission modes any transmission mode that is unnecessary for the media type of the selected media content choice.

## **IX. EVIDENCE APPENDIX**

None.

**X. RELATED PROCEEDINGS APPENDIX**

None.